

Governor's Study Committee Finds Constitutional Convention Not Needed

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GOV. JOHN M. DALTON

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REPORT OF CONSTITUTIONAL CONVENTION STUDY COMMITTEE

**Appointed by
GOVERNOR JOHN M. DALTON**

Committee Recommendation*

On the basis of its study and deliberations, the Committee recommends that:

A Convention to revise and amend the Missouri State Constitution should not be authorized by the voters in November, 1962.

Committee Findings and Conclusions

The recommendation of the committee is based on the following findings and conclusions:

1. There is not sufficient evidence in Missouri at this time of the widespread favorable sentiment, organized support, and determined leadership vital to a successful constitutional convention. The situation is far different from that in the corresponding period prior to the

*As written the three parts of the report were in the following order: The Committee: Its Assignment and Work; Committee Recommendation; and Committee Findings and Conclusions. For the convenience of the reader, the order has been changed in this booklet.

November 1942 election, which resulted in the 1943-44 convention that drafted the present State Constitution. Twenty years ago, widespread dissatisfaction was manifest with the Constitution then in effect. There had been for years a strong build-up of sentiment for thoroughgoing revision. The Constitution of 1875 was one of the oldest and longest of state constitutions. It had become a patchwork document, no longer had a logical form of organization, and was clearly outmoded. Six months prior to the 1942 election, a number of solidly backed movements to support a constitutional convention were well under way. In contrast, Missouri today has a Constitution that is relatively new and basically sound. There has not been in recent years a similar ground swell or cumulative sentiment for a convention. The simple fact is that there is not at present a widespread dissatisfaction with Missouri's existing Constitution.

2. A state constitutional convention is expensive in terms of money, time, and effort, both governmental and private. In addition to the campaign to get a favorable vote on the question of calling a convention, there must be another campaign to elect qualified delegates, and still another to secure ratification of the completed document. There are the many expenses of the convention itself, including compensation of delegates, secretaries, and clerks, and the cost of printing the minutes and the completed document. While the convention is in session, officials, private organizations, and individual citizens' throughout the State necessarily spend a great deal of time and money preparing and presenting their recommendations, and keeping themselves informed on the work of the convention and its com-

mittees. To justify such expense and effort, there must be reasonable grounds to believe that there can be achieved a constructive revision resulting in a thoroughly improved constitution which will be accepted by the voters. The Committee does not find reasonable grounds for such belief at this time.

3. The Missouri Constitution, adopted in 1945, is one of the newest of all state constitutions. Only three states have adopted new constitutions since 1945—New Jersey and the new states of Alaska and Hawaii. The present Georgia Constitution was adopted in the same year as Missouri's.

4. The basic organization and arrangement of the Missouri Constitution are, for the most part, satisfactory as a result of improvements made by the 1943-44 convention. When changes are needed, amendments can be incorporated into the present document in a logical manner.

5. Many suggestions for changes in the Missouri Constitution were made to the Committee. These suggestions were presented by state and local officials, representatives of state-wide and local organizations, and individual citizens. The suggestions range from improvements in wording and phraseology to major changes in governmental organization and operation.

6. Many of the suggestions presented to the Committee for major changes in the Missouri Constitution were considered by the 1943-44 convention, but were not incorporated into the 1945 Constitution. Examples are the proposals for changes in the formula for apportioning members of the State House

of Representatives, reduction in the number of State elective officers, and consolidation of counties. It is doubtful that such changes would be incorporated into a new constitution written today. Experience has demonstrated that when a new state constitution or city charter includes a number of changes, each of which is opposed by a sizable group of voters, the effect is to unify the opposing groups against the entire new constitution or charter, and thus assure its defeat. This difficulty is avoided when highly controversial changes are submitted to the voters as separate amendments.

7. Many of the suggestions presented to the Committee could be effected by legislative action under the existing State Constitution. Examples are the proposals that the voters of any judicial circuit be permitted to adopt the nonpartisan court plan for the selection of circuit judges; that the merit system be extended to additional State employees; and that additional sources of revenue be made available to counties, cities, and other political subdivisions of the State.

8. The present Missouri Constitution contains numerous provisions which have not been fully utilized by local governments to improve their organization and operations. Examples are the constitutional provisions authorizing the consolidation of counties; the cooperation of cities, counties, and other political subdivisions for the planning, development, construction, acquisition, or operation of any public improvement or facility, or for a common service; and the adoption of home rule charters by cities and counties.

9. All suggested changes in the Missouri

Constitution which were presented to the Committee could be effected through the amendment process, as contrasted to a general revision of the Constitution.

10. Missouri's Constitution is easier to amend than the constitutions of most other states. In Missouri, amendments may be submitted to the voters either by the Legislature or by the voters through the initiative process. Only 14 of the 50 states allow amendments to be submitted by voters through the initiative process. While all states except one allow the legislature to submit amendments, Missouri is one of only 16 states that make it possible for a simple majority of the elected members of the legislature to submit constitutional amendments. Most states require an unusual majority of both houses, customarily two-thirds or three-fifths of the members elected. Fourteen states require that amendments must be approved by two successive sessions of the legislature.

11. The Missouri record shows that, when sufficient demand for changes in the State Constitution has developed, the amendment process has been used. Since the Constitution was adopted in 1945, 19 amendments have been submitted to the voters—13 have been adopted and six have been rejected. In addition, four proposed constitutional amendments will be submitted to the voters at the August primary election this year and three more will be submitted at the general election in November.

12. The general election in November 1962 need not be the last opportunity the voters have for another 20 years to authorize the calling of a convention to revise and amend the State Constitution. It is true that the Constiti-

tution requires the question of holding a convention to be placed on the ballot by the secretary of State at the general election next November and every 20 years thereafter. However, the Constitution also provides that the General Assembly may, by law, submit the question to the voters at any general or special election. The voters themselves could, at any time, utilize the initiative process to call a constitutional convention.

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13. The Committee hearings revealed a feeling in some quarters that adequate machinery and staff facilities are not presently available for the consideration and drafting of proposed substantive and corrective amendments to the State Constitution. The hearings revealed a concern in other quarters that too many amendments are submitted to the voters without sufficient study. The Committee would like to recognize this concern expressed and call attention to the machinery that does exist for considering and processing proposed constitutional amendments, and the staff facilities available to study and prepare proposed revisions of the Constitution, since these do not seem to be widely known. Each house of the Missouri General Assembly has standing committees which act on proposed constitutional amendments. The House of Representatives has a standing Committee on Constitutional Amendments. In the Senate, most proposed constitutional amendments are assigned to the Judiciary Committee, which traditionally works almost exclusively with matters of major significance. In addition, both houses on occasion assign proposed constitutional amendments having specialized subject matter to standing committees established to deal with such subject matter. For example, the Senate

assigns amendments to the Highway Article of the Constitution to its Committee on Roads and Highways. Further, the Legislature on frequent occasions creates interim study committees, which often study constitutional questions and, if deemed to be needed, recommend proposed constitutional changes. Facilities to staff the foregoing committees in inquiring into constitutional questions and to draft proposed constitutional amendments are available through the Committee on Legislative Research, which is a committee of the Legislature provided for by the Constitution. This committee maintains a permanent professional research and drafting staff of five attorneys and one other research worker, plus clerical and stenographic personnel. The Committee on Legislative Research supplies the research, drafting, clerical, and stenographic needs of both the standing and interim study committees of the Legislature. When studies and other tasks require it, the committee augments its staff. The staff also drafts the proposed constitutional amendments and bills sponsored by members of both houses of the Legislature. The Constitutional Convention Study Committee feels that a constructive purpose would be served if the Committee on Legislative Research would direct its staff to engage in such constitutional studies as may be needed to make recommendations for constitutional amendments. As pointed out, extensive staff facilities are available for studying constitutional revision problems and for drafting proposed constitutional amendments in a professional manner by experienced career personnel.

The Committee: Its Assignment And Work

The Constitutional Convention Study Committee, consisting of 23 men and women representative of all sections of Missouri, was appointed by Governor John M. Dalton on December 12, 1961. The assignment of the Committee, as stated by the Governor, was "to make recommendations to the state upon the advisability of calling into being a Constitutional Convention in 1963."

The first meeting of the Committee was called by the Governor in his office in Jefferson City on January 9, 1962. He pointed out that the present State Constitution requires that there shall be submitted to the voters of the State at the November 1962 election the following question:

"Shall there be a convention to revise and amend the Constitution?"

This question must be submitted on a separate ballot without party designation. If a majority of the votes cast on the question are in the affirmative, the Governor is required to call an election of delegates to the convention.

After explaining that he wanted the Committee's recommendations for the guidance of both himself and the voters, the Governor expressed his regret that there was no appropriation to pay the expenses of Committee members. He stated, however, that his office would provide limited secretarial service, and that funds would be made available to reproduce and distribute copies of the Committee's report.

The Governor stated that he would leave it up to the Committee to determine how it should operate, but that he would like to recommend the election of Dr. William L. Bradshaw as Chairman and Mr. Ethan A. H. Shepley as Vice Chairman. On separate motions, each of these individuals was so elected.

The Committee authorized the Chairman and Vice Chairman to appoint one member as Secretary, and three members from different sections of the State to serve with them as a Steering Committee. The organization as finally completed is shown below:

Chairman

William L. Bradshaw, University of Missouri, Columbia. Delegate 1943-44 Convention; Chairman, Local Government Committee.

Vice Chairman

Ethan A. H. Shepley, Chairman of the Board, Washington University, St. Louis. Delegate 1943-44 Convention; Chairman, Taxation Committee.

Secretary

Victor D. Brannon, Director, Governmental Research Institute, St. Louis.

Steering Committee

Charles F. Lamkin, Jr., Attorney, Kansas City. Member, State Board of Education.

P. M. Marr, Attorney, Milan. Delegate, 1943-44 Convention; Chairman, Bill of Rights Committee.

L. E. Meador, Retired Professor, Drury College, Springfield. Delegate, 1943-44 Convention.

Other Members

Henry D. Bradley, St. Joseph News-Press, St. Joseph. Member, State Highway Commission.

James A. Davis, Vice President, Missouri State Labor Council AFL-CIO, Jefferson City.

Earl E. Dawson, President, Lincoln University, Jefferson City.

John B. Ervin, Harris Teachers College, St. Louis.

Victor A. Gierke, The Press-Journal, Louisiana.

John W. Joynt, State Senator, Attorney, St. Louis.

Everett Keith, Executive Secretary, Missouri State Teachers Association, Columbia.

Roger E. Kirchner, State Representative, Farmer, Syracuse. Delegate 1943-44 Convention, Chairman, Agriculture and Conservation Committee.

Rabbi Samuel S. Mayerberg, Kansas City. Former member, Board of Police Commissioners.

Mrs. E. B. Mobley, Housewife, Kennett.

Miss Adah Peckenpaugh, High school teacher, Clinton. Immediate Past President, Missouri State Teachers Association.

Mrs. Eugene Pharis, Webster Groves. Former President, League of Women Voters of Missouri.

Dru L. Pippin, Waynesville. Member, Missouri Conservation Commission.

Very Reverend Paul C. Reinert, S. J., President, St. Louis University, St. Louis.

H. Greene Simpson, Simpson Printing Company, Kirksville. Delegate 1943-44 Convention.

Albert M. Spradling, Jr., State Senator, Attorney, Cape Girardeau.

Edward Staples, Executive Director, Missouri Public Expenditure Survey, Jefferson City.

In beginning its work, the Committee agreed that it should seek to determine

whether there should be a Constitutional Convention, but that it should not promote a campaign for or against one. The decision was made to hold three major public hearings in different areas of the State, each hearing to be conducted by Committee members living nearby, with all members encouraged to attend and participate. Any member was authorized to arrange for a hearing in any community where there appeared to be sufficient interest.

It was agreed that Committee members, through both public hearings and individual contacts, should solicit advice and counsel from public officials, civic and educational leaders, organized groups, and individual citizens, on the following questions:

1. What provisions, if any, of the present Constitution need to be changed?
2. Are these changes of sufficient importance to justify the calling of a Constitutional Convention? Or may the changes be obtained by an amendment or a series of amendments?
3. Should a Convention be authorized by the voters of Missouri in November 1962?

The first public hearing was held in Jefferson City on February 21. Subsequent hearings were held in St. Louis on April 26 and in Kansas City on April 27. Prior to each hearing, hundreds of invitations were mailed to public officials, organized groups, and community leaders. Each individual making a state-

ment at the hearing was asked to file a written copy of his statement. Newspapers co-operated fully in publicizing the dates and purposes of the hearings.

Minutes were prepared on each public hearing, including copies of all written statements filed and summaries of other statements made at the hearing. Copies of these minutes were distributed to all Committee members, so that they might study them.

The Committee completed its study and deliberations at a meeting held in Jefferson City on June 18, 1962. The recommendation, findings, and conclusions agreed upon at this meeting are presented in this report.*

*The vote on the adoption of the Committee report was as follows:
Yes—Bradshaw, Brannon, Dawson, Joynt, Kirchner, Lamkin,
Marr, Meador, Mobley, Peckenpaugh, Pippin, Shapley,
Spradling, and Staples.
No—Davis, Mayerberg and Pharis.
Absent—Bradley, Ervin, Gierke, Keith, Reinert, and Simpson.
